

## **REMARKS/ARGUMENTS**

The rejections presented in the Office Action dated September 15, 2011 (hereinafter Office Action) have been considered. Claims 1, 4, 6, 13-15, 18, 20, 21, 29, 30, 33, 36, 39-41, 48-50, 53, 55, 58, 60, 63 and 64 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant has amended independent claims 1, 20, and 36 to include subject matter from now canceled claims 15 and 50 to enhance an understanding of the claimed invention. For example, claim 1 has been amended to recite that measuring an impedance of an atrial lead for a particular patient by delivering a stimulus via the atrial lead and deriving the impedance measurement using the delivered stimulus, the stimulus having an energy insufficient to effect atrial capture. Independent claims 20 and 36 have been similarly amended. Claims 14, 15, 49, and 50 have been canceled for consistency with the amendments made to the independent claims. No new matter has been added.

Claims 1, 13-15, 18, 20, 33, 36, 39, 48-50, 53, 55, 60 and 63-64 are rejected based on 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2004/0220624 by Ritscher et al. (hereinafter "Ritscher") in view of U.S. Patent No. 7,031,773 to Levine et al. (hereinafter "Levine"). Claims 4, 6, 21, 29-30, 40-41 and 58 are rejected based on 35 U.S.C. §103(a) as being unpatentable over Ritscher in view of Levine.

With regard to the rejected claims, and without acquiescing to the basis of the rejections, Applicant respectfully submits that the amendments to independent claims 1, 20, and 36 set forth above clearly distinguish these claims over the combination of Ritscher and Levine.

As described above, independent claims 1, 20, and 36 have been amended to include subject matter from dependent claims 15 and 50. The Office Action relies on Figure 3 and column 12, lines 22-30 of Levine to support the rejection for claims 15 and 50. At this section of Levine, an autocapture assessment is completed by the determination of a final pacing energy. Levine does not even teach or suggest a process for making an impedance measurement at this section. Simply applying a pacing pulse to a heart chamber that does

not illicit a captured response does not constitute measuring an atrial lead impedance using a stimulus having an energy insufficient to effect atrial capture.

For at least the reasons stated above, Applicant asserts that claims 1, 20, and 36 and their dependents are patentable over the cited combination of references. The rejected dependent claims include all of the limitations of the base claim and recite additional patentable features. For example, claims 18 recites wherein measuring the impedance comprises taking a plurality of impedance measurements after detection of an atrial arrhythmic event and prior to atrial ATP therapy delivery. The Office Action relies on Figure 3 and column 12, lines 9-25 of Levine in support of the rejections for claim 18. Levine does not teach or suggest using ATP therapy at this section and therefore cannot be relied on to teach or suggest taking a plurality of impedance measurements after detection of an atrial arrhythmic event and prior to atrial ATP therapy delivery.

Furthermore, Applicant reasserts the arguments made in the Office Action Response dated June 23, 2011 regarding claims 21 and 58. The Response to Arguments section of the Office Action did not address Applicant's arguments regarding these claims. Applicant respectfully asserts that Applicant's specification clearly discloses one or more of an advantage, use for a particular purpose, or a solution to a stated problem which is achieved by detecting an ambiguity in the impedance, capture threshold, and sense amplitude deviations.

Applicant respectfully submits that the combination of Ritscher and Levine fails to teach or suggest several features of the rejected claims as discussed above. For at least these reasons, independent claims 1, 20, and 36, and all claims depending therefrom, are patentable over the combination of Ritscher and Levine. Applicant respectfully requests withdrawal of the rejections of all pending claims and submits that all claims are in condition for allowance.

To the extent Applicant have not responded to any characterization by the Examiner of the asserted art or of Applicant's claimed subject matter, or to any application by the Examiner of the asserted art to any claimed subject matter, Applicant wishes to make clear for the record that any such lack of response should not be interpreted as an acquiescence to

such characterizations or applications. A detailed discussion of each of the Examiner's characterizations, or any other assertions or statements beyond that provided above is unnecessary. Applicant reserves the right to address in detail any such assertions or statements in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (GUID.014US01) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,  
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